



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

DEC 22 2006

OFFICE OF
CIVIL RIGHTS

RETURN RECEIPT REQUESTED
Certified Mail: 7004-1160-0004-8430-8039

In Reply Refer to:
EPA File No. 09R-04-R7



Re: REJECTION OF ADMINISTRATIVE COMPLAINT

Dear 

This is to notify you that the U.S. Environmental Protection Agency (EPA) Office of Civil Rights (OCR) is rejecting your administrative complaint received by the U.S. Department of Justice on October 3, 2003. DOJ referred to the complaint to OCR on September 8, 2004. The complaint alleged that Linn County intentionally discriminated against you by continuing its open burning regulations in Robins, Iowa, after learning of your disability (multiple chemical sensitivities and respiratory problems).

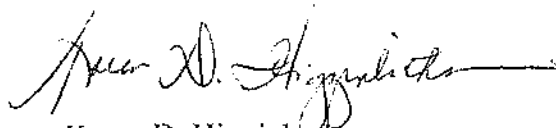
Under EPA's nondiscrimination regulations, a recipient of EPA financial assistance may not discriminate on the basis of race, color, national origin, or disability. Pursuant to EPA's administrative regulations, OCR conducts a preliminary review of nondiscrimination complaints for acceptance, rejection, or referral. 40 C.F.R. § 7.120(d)(1). To be accepted for investigation, a complaint must meet the jurisdictional requirements described in EPA's nondiscrimination regulations. First, it must be in writing. Second, it must describe an alleged discriminatory act that, if proven true, may violate EPA's nondiscrimination regulations (*i.e.*, an alleged discriminatory act based on race, color, national origin, sex, or disability). Third, it must be filed within 180 calendar days of the alleged discriminatory act. 40 C.F.R. § 7.120(b)(2). Fourth, it must be filed against an applicant for, or a recipient of, EPA financial assistance that committed the alleged discriminatory act. 40 C.F.R. § 7.15.

Your complaint does not meet all of the jurisdictional criteria described above. Therefore, OCR must reject your complaint for investigation. The complaint is in writing, describes a discriminatory act, and identifies a recipient of EPA financial assistance. However, issues pertaining to timeliness are discussed below.

As stated earlier, EPA regulations require a complaint be filed within 180 calendar days of the alleged discriminatory act. Your complaint indicates that it was written on August 24, 2002. However, DOJ records state that your complaint arrived at their office on October 3, 2003. To confirm the receipt date, we contacted you and requested additional documentation of the date your complaint was sent to DOJ, (*e.g.*, transmittal fax sheet confirmation, USPS delivery confirmation). While you provided supplemental information, it did not include documentation to confirm that your complaint was mailed to DOJ on August 24, 2002, or received by DOJ within 180 calendar days of the alleged discriminatory act. OCR will use DOJ's records which confirm a receipt date of October 3, 2003. Because the complaint was not received by DOJ within 180 calendar days of the alleged discriminatory act (*i.e.*, Linn County's decision in 2002 to continue open burning), it does not meet the timeliness requirement established in EPA's regulations. OCR cannot accept your complaint for investigation, since it does not satisfy all of the jurisdictional criteria.

If you have any questions, please contact Anthony Napoli of my staff via Federal Relay Service 800-877-8337, and provide the relay operator his telephone number 202-233-0652. He may also be reached via electronic mail at Napoli.Anthony@epa.gov, or by mail at: U.S. EPA, Office of Civil Rights (Mail Code 1201A), 1200 Pennsylvania Ave., N.W., Washington, D.C. 20460-1000.

Sincerely,



Karen D. Higginbotham
Director

cc: Linn County Board of Supervisors
Linn County Administrative Office Building
930 First Street, SW
Cedar Rapids, IA 52404

Stephen G. Pressman, Associate General Counsel
Civil Rights & Finance Law Office
Office of General Counsel (2399A)

Rupert Thomas, Title VI Coordinator
EPA Region 7